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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,802	11/18/2003	Timothy W. Giralдин	8591-111	6775
36412	7590	09/21/2005		
DUCKOR SPRADLING METZGER 401 WEST A STREET, SUITE 2400 SAN DIEGO, CA 92101-7915			EXAMINER HESS, DANIEL A	
			ART UNIT 2876	PAPER NUMBER
DATE MAILED: 09/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/716,802	Applicant(s) GIRALDIN ET AL.	
	Examiner Daniel A. Hess	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/7/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-35 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-35, 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/14/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's 7/7/2005 reply and amendment.

Response to Arguments

The applicant has amended the claims to recite that a transmitter is provided to each member of a group, and that account information is received at a cashless station via a transmitter.

The examiner notes that at the time of the invention, it was possible to make purchases with a credit card using a cell phone. Nakatsuyama (US 2002/0143550) is just one example that shows it is possible to shop, for example at online shopping sites, using an Internet enabled cell phone.

If each member of a family has a cell phone and has a shared card account system such as shown in Benkert et al., and if one of the family members makes a purchase using this Benkert et al. – type account on their cell phone, the limitations, as understood broadly, are met.

In this type of scenario, local cell phone towers (or transmission units if they are not on towers) act as cashless stations which receive personal and transaction information facilitating a transaction, and which receive account information. There is also a confined area because the zone of coverage for a cellular network is confined. It is admittedly large, but is nevertheless confined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 19-35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benkert et al. (US 6,796,497) in view of Nakatsuyama (US 2002/0143550).

Re claim 19: Benkert et al. teaches essentially a financial account system having a primary account and associated subsidiary spending account(s) (column 3, line 20 to column 4,

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line 60 are exemplary). It is clear that there may be multiple subsidiary accounts (column 5, line 64 to column 6, line 7). The most prominent example provided by Benkert et al. is an arrangement wherein a parent is in charge of a primary account and then can provide limited access to finite amounts of funds in one or more subsidiary accounts for use by one or more children. In this arrangement, all of the cardholders including the parent and children can be considered members of a group. The system tracks monetary deposit information by the parent (figure 1, reference 134). Each member of the group has a personal card, and this card essentially qualifies as a personal identification that they would provide at a location such as a store where they can perform a **cashless** transaction (in that case using the card as a credit card). In the case of a credit card-type transaction at a store, transaction information would certainly be stored, both by the store and by the credit card system. Transaction reports are a natural part of the Benkert et al. system: see figure 2, refs. 232 and 234.

Lacking in Benkert et al. is a teaching that a transmitter is provided to each member of a group and that account information is received at the cashless station via a transmitter.

Nakatsuyama (US 2002/0143550) is just one example that shows it is possible to shop, for example at online shopping sites, using an Internet enabled cell phone (see abstract, lines 5-6 and throughout specification).

If each member of a family has a cell phone and has a shared card account system such as shown in Benkert et al., and if one of the family members makes a purchase using this Benkert et al. – type account on their cell phone, the limitations, as understood broadly, are met: In this type of scenario, local cell phone towers (or transmission units if they are not on towers) act as cashless stations which receive personal and transaction information facilitating a transaction,

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and which receive account information. There is also a confined area because the zone of coverage for a cellular network is confined. It is admittedly large, but is nevertheless confined.

In view of Nakatsuyama's teaching, it would have been obvious to one of ordinary skill in the art at the time the invention for holders of transaction account cards of Benkert's type to perform online shopping using their cell phones because this could allow such time saving advantages as being able to shop for virtually anything online while away from a computer.

Re claims 20 and 21: In Benkert et al., the parent can allocate a particular spending limit to a child – i.e. “flexible limit subsidiary account system” (column 8, lines 66 and 67).

Re claim 22: Total amounts spent would naturally be subject of the various statements of the parent and subsidiary accounts indicated in figure 2, refs. 232 and 234.

Re claim 23: If a subsidiary account-holder attempts to obtain an amount of cash greater than what is available to them according to the limits that have been set, they will clearly not be able to.

Re claims 24-28: See claims 19-23, respectively. Claims 24-28 describe a system which embodies the method of claims 19-23, respectively.

Re claims 29-33: See claims 19-23, respectively. Claims 29-33 describe software which achieves the method of claims 19-23, respectively. It is implicit that Benkert's system operates through software.

Re claims 34-35 and 37: These claims are similar to claims 19, 24 and 29, respectively but they are even broader in that they do not refer to a group but rather to an individual. As a result even a more generic transaction card could meet the limitations of the claim, with or without the special ‘group’ account aspects of Benkert.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A. Hess whose telephone number is (571) 272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DH
9/16/05

DANIEL STCYR
PRIMARY EXAMINER

